THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27295 of 2005

-

27.12.2005

Between:

... Petitioner

AND

and others

...Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.27295 of 2005

ORDER:

The petitioner is resident of Dwaraka Tirumala. He is aggrieved by the action of the second respondent in issuing notices under Sections 9(3) and 10 of Land Acquisition Act, 1894 (the Act, for brevity) and therefore, invoked the jurisdiction of this Court to declare the same as illegal and for an order setting aside the same.

It is the case of the petitioner that the first respondent issued a notification under Section 4(1) of the Act proposing to acquire Acs.0.49½ of the land in various subdivisions of survey No.45 including the land admeasuring Acs.0.04½ belonging to the petitioner for the purpose of developing Sri Venkateswara Swamy Devasthanam, Dwaraka Tirumala. By the said notification, enquiry under Section 5-A of the Act was dispensed with. The petitioner and others challenged the notification by filing various writ petitions being W.P.No.5784 of 2004 and batch. By a common order dated 29.8.2005, this Court disposed of the batch of writ petitions directing the Land Acquisition Officer to conduct enquiry under Section 5-A of the act in accordance with law. It is the case of the petitioner that thereafter the enquiry under Section 5-A of the Act was not completed, but the second respondent issued

notices in Form-7 under Sections 9(3) and 10 of the Act, which is illegal.

The matter was initially listed on 22.12.2005. The matter was adjourned to enable the learned Assistant Government Pleader for Revenue (Land Acquisition) to get instructions in the matter. After getting instructions in the matter, the learned Assistant Government Pleader submits that the enquiry under Section 5-A of the Act as directed by this Court is still pending and that in view of the same, the declaration under Section 6(1) of the Act was not issued. He, therefore, does not dispute the illegality in issuing the notices under Sections 9(3) and 10 of the Act impugned in the writ petition.

Therefore, this writ petition is allowed. The impugned notice is set aside. It shall however be open to the second respondent to complete the enquiry under Section 5-A of the Act and proceed further in accordance with law. There shall be noder as to costs.

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(**V.V.S.RAO, J**)

December 27, 2005.

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